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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,397	08/23/2001	Jason Benfield	AUS920010427US1	9831
35525	7590	01/27/2006	EXAMINER	
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			JACOBS, LASHONDA T	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,397

Applicant(s)

BENFIELD ET AL.

Examiner

LaShonda T. Jacobs

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,18,19,21-23 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-6, 18-19, 21-23 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This Office Action is in response to Applicants' Election to Restriction Requirement filed on November 1, 2005. Group I has been elected for examination. Claims 1-2, 4-6, 18-19, 21-23 and 35 are presented for further examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-2, 4-6, 18-19, 21-23** and **35** are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al (hereinafter, "Nelson", 5,835,720).

As per claims **1, 18** and **35**, Nelson discloses a method, computer program product and system for discovering status of a network topology, comprising the steps of:

- presenting an interface having a menu, the menu having a plurality of alternative discovery methods (col. 5, lines 12-31);
- establishing an order in which the alternative discovery methods should be performed (col. 5, lines 22-31);
- executing the alternative discovery methods in the established order (col. 5, lines 22-31);

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- maintaining a dynamically gathered record of devices which are compliant to at least one of a first discovery method and a second discovery method (col. 5, lines 12-31); and
- using an appropriate discovery method for a given device according to the dynamically gathered record, wherein a first device of the devices is accessed using the first discovery method and second device of the devices is accessed using the second discovery method (col. 8, lines 13-28).

As per claims **2** and **19**, Nelson further discloses:

- maintaining a record of devices in the network which are discovered through a first discovery method (col. 8, lines 32-40); and
- removing those devices in the record from discovery through a second discovery method (col. 8, lines 32-40).

As per claims **4** and **21**, Nelson further discloses:

- altering the established order the devices in the network according to a first number of devices compliant to the first discovery method and a second number of devices compliant to the second discovery method according the record (col. 8, lines 41-60).

As per claims **5** and **22**, Nelson discloses:

- wherein the alternative discovery methods that are executed in the established order are at least one of a simple network management protocol (SNMP), an Internet protocol packet Internet Groper (IP ping), a point-to-point over Ethernet (PPPoE), and a dynamic host configuration protocol (DHCP) (col. 4, lines 56-63, col. 5, lines 22-31 and col. 6, lines 55-62).

As per claims **6** and **23**, Nelson further discloses:

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- modifying the established order of the alternative discovery methods based on a predetermined criteria (col. 6, lines 45-62).

Response to Arguments

3. Applicant's arguments with respect to claims 1-2, 4-6, 18-19, 21-23 and 35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

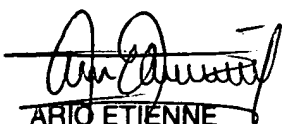
Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ltj
January 20, 2006

LaShonda T Jacobs
Examiner
Art Unit 2157


ARIO ETIENNE
PRIMARY EXAMINER